

Corrected Copy

CONCURRING OPINION

OF

COMMISSIONER JOAN D. AIKENS

ADVISORY OPINION 1986-8

I voted to approve Advisory Opinion 1986-8 because I share the majority's view that Mr. Santini's 1986 Senate Campaign may issue refunds to certain contributors to his 1982 Senate campaign. While I believe that the opinion's conclusion is correct, I am not totally in agreement with the rationale used to reach that conclusion.

The Commission has, since 1976, adhered to the well-established principle that candidates and their campaign committees have broad discretion in making expenditures to influence the candidate's election. I continue to endorse that principle. I do not, however, agree with the opinion's use of 2 U.S.C. Section 439a as a statutory basis in support of allowing the aforementioned refunds. Section 439a, which permits excess campaign funds to be spent for "any other lawful purpose" is not germane to the factual situation in this advisory opinion and should not have been adopted as a basis for issuing the opinion.

My support of the opinion's conclusion is, therefore, based on the premise that those expenditures (refunds) by the 1986 Senate campaign committee are for the purpose of influencing Mr. Santini's 1986 Senatorial election and for that reason, I voted to approve AO 1986-8.

6-12-86
Date

Joan D. Aikens
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Commissioner